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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,915	02/08/2007	Boris Basche	502901-222PUS	3825
27799 7590 08/02/2007 COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176			EXAMINER LUEBKE, RENEE S	
			ART UNIT 2833	PAPER NUMBER
			MAIL DATE 08/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/570,915	BASCHE ET AL.	
	Examiner	Art Unit	
	Renee S. Luebke	2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/2/06 & 2/8/07</u> . | 6) <input type="checkbox"/> Other: ____ |

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1. The disclosure is objected to because of the following informalities:

- At the end of the replaced paragraph spanning pages 1-1a, the US application number should be inserted in place of the German one (as was done at the beginning of the same paragraph).
- Reference numeral **14** (pages 5 and 6) is not found in the figures.
- It is suggested that Fig. 3 be redrawn with the same care and quality used in Figs. 1 and 2.

Appropriate corrections are required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Clabunde, et al. As noted by the WIPO examiner, the Clabunde control unit comprises a rotary encoder (6a, 6b) with the inner ring arranged in a pot-shaped guide element (receptacle 14) which is linearly movable along the axis (z) ([0020]-[0022]), inner ring (6a) of the rotary sensor (6a, 6b) is secured against rotation in the guide element (receptacle 14) ([0020]), the rotary encoder (6a, 6b) and the inner part are fixed to the guide element (receptacle

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14) in an immovable manner along the axis (z) ([0020]-[0022]), and the guide element (receptacle 14) acts upon a momentary contact switch (joystick 3, see ([0021]) operating the momentary contact as claimed. The device of Clabunde further comprises a touchpad 2, a restoring element 12, a holding cylinder (top ring of 14) holding the touch pad, and a printed circuit board 4. The unit of Clabunde also comprises a plurality of keys 50 around the rotary actuator.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

5. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being obvious over Clabunde in view of Dinkel, et al. The location for placing the control unit of Clabunde is not specifically stated. The discussion of a wrist rest (paragraph 27) suggests that it is intended for use near the user's arm. This is similar to the controls of Dinkel. Dinkel specifically teaches placing the controls on an armrest AL of the vehicle. This is certainly convenient for the user. Therefore, it would have been obvious to place the control unit of Clabunde on the armrest of the vehicle as taught by Dinkel.

The applied reference (Clabunde) has a common assignee and common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with

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37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawase includes a rotary/pushbutton actuator 5, 8, 11 with an interior space. Haizima, et al. also teaches a rotary/pushbutton actuator 21, 24 with an interior space (for another actuator).

7. Any response to this action may be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

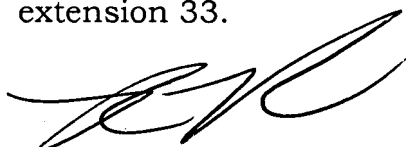
or faxed to:

(571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

8. Any inquiry concerning this communication from the examiner should be directed to Mrs. Renee Luebke whose telephone number is (571) 272-2009.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Paula Bradley, can be reached at (571) 272-2800, extension 33.



Renee S. Luebke
Primary Patent Examiner
July 29, 2007